

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GAZI A. HOSSAIN

Plaintiff,

v.

STRAUSS DISCOUNT AUTO, et. al,

Defendants.
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GARAUFIS, United States District Judge.

NOT FOR PUBLICATION

ORDER

05-CV-1210 (NGG) (LB)

Plaintiff Gazi Hossain has moved for reconsideration of this court's July 14, 2005 decision denying his motion for default judgment. Hossain's motion was denied because defendant Strauss Discount Auto's answer, though untimely, was filed prior to the entry of default by the Clerk of Court, and because under the law of this Circuit, this court would have been required to set aside a default, even if it had been entered, upon receipt of the defendant's answer on July 13, 2005. See July 14, 2005 Order at 1-2.

Hossain's motion for reconsideration is denied because Hossain has not identified any issue of law or fact that was overlooked in the court's July 14, 2005 Order. A motion for reconsideration may be granted only on the grounds that the court overlooked (1) factual matters that were put before it on the underlying motion or (2) controlling legal authority. See Fed. R. Civ. P. 59(e); Local Civil Rule 6.3; Range Road Music, Inc. v. Music Sales Corp., 90 F. Supp. 2d 390, 392 (S.D.N.Y. 2000). A motion for reconsideration "is not simply a second opportunity for the movant to advance arguments already rejected." Shrader v. CSX Transportation, Inc., 70 F.3d 255, 257 (2d Cir. 1995). Rather, such a motion may be granted only in "extraordinary

circumstances,” United States v. Bank of New York, 14 F.3d 756, 759 (2d Cir. 1994), such as to “correct a clear error or prevent manifest injustice.” Doe v. New York City Dep't of Soc. Servs., 709 F.2d 782, 789 (2d Cir. 1983).

Here, Hossain simply renews his argument that he is entitled to default judgment as a matter of law because defendant Strauss Discount Auto did not answer on or before May 24, 2005. For the reasons stated in the July 14, 2005 Order, this assertion is contrary to the law of this Circuit. Accordingly, Hossain’s motion for reconsideration is denied.

SO ORDERED.

Dated: August 10, 2005
Brooklyn, N.Y.

/s/ Nicholas G. Garaufis
Nicholas G. Garaufis
United States District Judge